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OFFICE OF PETITIONS

In re Application of
Mudd
Application No. 09/935,617
Filed: August 23, 2001
Attorney Docket No. F.11181

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: DECISION GRANTING
: PETITION
:
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This is a decision on the petition filed December 31, 2001, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed September 25, 2001.

The application was filed on August 23, 2001. However, on September 25, 2001 the Office of Initial Patent Examination mailed a Notice stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, petitioner filed three sheets of drawings, a newly executed declaration, and the present petition on October 5, 2001.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed September 25, 2001 was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of August 23, 2001. The petition is granted.

Applicant is expected to resubmit the proposed drawings of Figures 1-3 by way of a preliminary amendment for consideration by the examiner for sufficiency of illustration and new matter. See MPEP 608.02.

No petition fee has been or will be charged.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 23, 2001, and for indication in USPTO records that "0" sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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for Patent Examination Policy